

## SUBCOMMITTEE NO. 2

## Agenda

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Monday, April 3, 2006  
3:00 p.m. or Upon adjournment of the  
Environmental Quality Committee hearing  
Room 112

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### Resources—Environmental Protection—Energy—Utilities

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## Climate Change Initiative Overview

**Background.** In June 2005, the Governor signed Executive Order S-3-05 which set the following greenhouse gas emission reduction targets:

- By 2010—Reduce GHG emissions to year 2000 levels.
- By 2020—Reduce GHG emissions to year 1990 levels.
- By 2050—Reduce GHG emissions to 80 percent below year 1990 levels.

The Governor directed the Secretary of Cal-EPA to coordinate efforts made to meet these targets and established the Climate Action Team to develop strategies to support the order. The Climate Action Team draft report was released in December 2005. The report recommends that the following actions be taken to meet the Governor's GHG emission reduction targets:

- Require mandatory reporting of GHG emissions.
- Levy a public goods charge on gasoline and diesel to fund the promotion of alternative, cleaner transportation fuels.
- Coordinate the state's investment funds to reward industry development of emission reduction technology.
- Create provisions to credit companies that take early actions to reduce GHG emissions.

The final draft of the Climate Action Team report, due in January, has not been released. The Executive Order also specified that this report would be updated biannually.

**Governor's Budget.** The Governor's Budget includes \$7.2 million (\$135,000 in General Fund monies) to implement this initiative. The majority of the funding is for the Air Resources Board (ARB) and the Secretary for Environmental Protection, but activities are also funded at the California Energy Commission, the California Public Utilities Commission, and the Integrated Waste Management Board. More detailed descriptions of these budget proposals are contained in this agenda under each department.

**Ongoing Efforts to Reduce GHG Emissions.** Prior to the Governor's Executive Order, California was already engaged in a variety of efforts to reduce GHG emissions, including:

- **California Climate Action Registry.** Registers voluntary reports of GHG emissions to establish baselines against which future GHG emission reduction requirements can be applied.
- **GHG Vehicle Emission Standards.** Requires the ARB to regulate GHG emitted by passenger vehicles and light-duty trucks to achieve maximum feasible reductions. (The state is currently engaged in litigation regarding these standards.)
- **Diesel Idling Restrictions.** Requires the ARB to develop regulations to prevent diesel truck engine idling.
- **Renewable Portfolio Standard.** Requires the state's retail sellers of electricity to achieve at least 20 percent of energy sales from renewable sources.
- **Energy Efficiency Programs.** Establishes energy-savings targets for investor-owned utility energy efficiency programs and issues standards that reduce the energy demands of buildings and household appliances.

- **Tire Replacement and Inflation.** Ensures that replacement tires sold in the state are at least as energy efficient as the originals and encourage energy efficient inflation.
- **Recycling Goals.** Establishes 50 percent diversion rates for waste heading to landfills.

The Climate Action Team draft report proposes to build on these efforts to meet the emission reduction targets.

**Additional Efforts Needed to Meet GHG Emission Reduction Goals.** The draft Climate Action Team report proposes a series of additional actions that are needed to meet GHG emission reduction goals. The Climate Action Team has formed two subgroups: the Scenario Analysis subgroup and the Cap and Trade subgroup. The Scenario Analysis subgroup is charged with evaluating California-specific impacts of climate change and a menu of potential actions that the state could take to reduce GHG emissions. The Cap and Trade subgroup is charged with evaluating options for a GHG emission cap and trading program in the state.

**Evaluating the Budget Proposal.** In order to evaluate the proposed budget for climate change activities, staff recommends that the Subcommittee consider the following general principles for evaluating each budget request related to the Climate Change Initiative. The general principles include:

- **Detailed Roadmap.** It is critical that the Legislature be presented with a detailed plan for meeting emission reduction goals. All budget proposals should relate directly to the plan.
- **Multi-Pronged Approach.** The state should continue to move forward with proven strategies that reduce GHG emissions. However, at the same time, it is important to fund targeted research that is needed to develop additional GHG reduction strategies.
- **Measurement.** The state must have a system of tracking its performance in meeting GHG emission reduction goals. Without such a system, it will be difficult to determine which strategies are most cost-effective.
- **Consider Cost.** The state should attempt to invest in the most cost-effective GHG emission reduction strategies first.

**Legislature Needs Additional Information.** Staff finds that the administration has not provided the information needed to effectively evaluate the Governor's Climate Change Initiative. First, the Governor has not submitted a detailed plan on how the state will reduce GHG emissions. The absence of such a plan makes it difficult for the Legislature to determine how individual budget proposals fit into any overall strategy for reducing emissions. Furthermore, the administration is proposing to fund a significant number of new research initiatives. Without an overall portfolio and plan that identifies gaps in current research, it is difficult to determine the need for individual research contracts.

In addition, the proposals provide only minimal funding for developing a comprehensive strategy for measuring GHG emissions. The draft plan, submitted by the Climate Action Team in December 2005, identified this action as a high priority, but the budget does not contain a significant commitment to implement this action. Without this information it is difficult to evaluate and track the efficiency of the strategies proposed for funding.

The budget proposal does appear to take a multi-pronged approach by funding a variety of activities, including funding activities that accelerate existing programs to reduce GHG emissions, as well as funding for varied research contracts. However, without the information identified above, it is difficult to determine whether the proposal is the right mix.

**Staff Recommendation.** Staff recommends that the Subcommittee hold open the budget proposals that comprise the Climate Change Initiative and request the following information from the Secretary for Cal-EPA:

- A detailed plan for achieving GHG emission reduction goals, including a comprehensive research portfolio.
- A plan for measuring GHG emissions and the development of tools to evaluate the efficiency and cost effectiveness of different emission reduction strategies.

## 0555 Secretary for Environmental Protection

**Background.** The California Environmental Protection Agency (Cal-EPA) is charged with implementing federal and state environmental quality standards. This is done through regulatory programs and incentive programs that seek to improve the quality of the environment for all Californians. The Cal-EPA is led by the Secretary for Environmental Protection and the agency oversees the following boards, departments, and office.

### Boards:

- Air Resources Board
- Integrated Waste Management Board
- State Water Resources Control Board  
(including the nine Regional Water Quality Control Boards)

### Departments:

- Department of Pesticide Regulation
- Department of Toxic Substances Control

### Office:

- Office of Environmental Health Hazard Assessment

**Governor's Budget.** The Governor's Budget proposes \$9.2 million to support the Secretary for Environmental Protection. This is a 60 percent increase over estimated expenditures in the current year due to budget proposals that transfer resources from boards and departments within Cal-EPA to the Secretary's office. General Fund support for the Secretary is proposed to increase by about \$650,000 due to these budget proposals.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Administration	\$10,196	\$13,363	\$3,167	31.1
<b>Total</b>	<b>\$10,196</b>	<b>\$13,363</b>	<b>\$3,167</b>	<b>31.1</b>
<b>Funding Source</b>				
General Fund	\$1,321	\$1,968	\$647	49.0
Special Funds	4,467	7,202	2,735	61.2
<i>Budget Act Total</i>	<i>5,788</i>	<i>9,170</i>	<i>3,382</i>	<i>58.4</i>
Reimbursements	2,017	1,805	-212	-10.5
State Water Quality Control Fund	117	167	50	42.7
Environmental Enforcement and Training Account	2,124	2,066	-58	-2.7
Environmental Education Account	150	155	5	3.3
<b>Total</b>	<b>\$10,196</b>	<b>\$13,363</b>	<b>\$3,167</b>	<b>31.1</b>

## 1. Climate Change Initiative

**Background.** The 2005-06 budget provided \$500,000 from the General Fund to the Secretary of Cal-EPA to support climate change activities. These monies were used to fund various studies to support the activities of the Climate Action Team. In addition to the development of a Scenario Analysis report and Cap and Trade report (see Climate Change Initiative Overview), the funds were also used to support studies on the economic impacts of climate change and the science of climate change. These funds are included in the base budget for the Secretary of Cal-EPA.

**Governor's Budget.** The Governor's Budget includes \$900,000 (\$135,000 in General Fund monies) in additional funds to fund two positions and \$595,000 in additional contracts to lead a statewide effort to meet the GHG emission reduction targets set by the Governor. Contract funding will fund technical support to continue the development and analysis of the various GHG emission reduction scenarios and the implementation of a cap and trade program.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 2. Climate Action Registry

**Background.** The Climate Action Registry was established in legislation (SB 1771, Sher), enacted in 2000, as a voluntary registry for GHG emissions. The purpose of the registry is to help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied. The registry encourages voluntary actions to increase energy efficiency and decrease GHG emissions.

In the past, this registry has been funded with \$200,000 in grant funds provided from the Public Interest Energy Research (PIER) program. The Legislature proposed to allocate \$500,000 to the Secretary for Cal-EPA for this purpose in 2005, but these funds were vetoed by the Governor. Therefore, no state funds were provided in the current year to fund the registry.

**Governor's Budget.** The budget does not provide funding to support the registry.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 3. CUPA Oversight

**Background.** The Certified Unified Program Agencies (CUPA) are designated local agencies that implement six hazardous waste and materials programs, including the regulation of dry cleaning businesses and gas stations. Last year, CUPAs were designated for the remaining jurisdictions that had no CUPA. The state now has 86 total CUPAs. The Department of Toxic Substances Control, the State Water Resources Control Board, the Office of Emergency Services, and the State Fire Marshall all have responsibilities related to the programs implemented by the CUPAs. The Secretary of Cal-EPA is responsible for the statewide oversight of the program, including a required triennial review of the CUPAs' operations.

**Governor's Budget.** The Governor's budget proposes \$294,000 from special funds to fund 2.5 positions to augment efforts to evaluate local CUPA activities.

**Workload Justification.** The administration currently has 1.5 positions supporting CUPA review activities. This level of staffing is not sufficient to conduct the statutorily required triennial review of local CUPA operations. The additional staffing will enable Cal-EPA to review local CUPA operations on schedule.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal.

## 4. Coordination of California/Mexico Border Issues

**Background.** There have been long standing collaborative efforts that focus on environmental issues along the California/Mexico border. Many of these programs have been funded by the General Fund and have been subject to budget reductions or redirections over the past several years. Some of the border efforts within Cal-EPA include:

- The Air Resources Board has an air monitoring program in the Tijuana area.
- The Integrated Waste Management Board has solid waste cleanup and monitoring efforts in the border zone.
- The State Water Resources Control Board (SWRCB) has a Border Affairs Unit that coordinates various border-related water quality activities.

Since 2003, the Border Affairs Unit at the SWRCB has served as the ad hoc coordinator of all agency-wide border issues.

**Governor's Budget.** The Governor's Budget includes the redirection of five positions and \$619,000 from Cal-EPA boards to the Secretary to support agency-wide policy and program coordination of California-Mexico border environmental efforts. Redirections include:

- One position from the ARB (\$115,000 from special funds).
- One position from the Waste Board (\$130,000 from special funds).
- Three positions from the SWRCB (\$374,000 from the General Fund).

**Justification.** Currently, support of border issues are handled on an ad hoc basis by staff at various Cal-EPA boards. An agency-level unit would be more effective in coordination, communication, and development of state policy and priorities related to border issues.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal.

## 5. Cal-EPA Consolidation of Administrative Functions

**Background.** Legislation (SB 1107, Budget), enacted in 2004, directed the Secretary of Cal-EPA to consolidate selected administrative functions at all of the boards, departments, and offices within the agency. Functions eligible for consolidation include procuring basic office supplies, information technology, collecting fees, and generic human resources functions that support state personnel.

This consolidation was initiated in the 2005-06 fiscal year with a \$1 million increase in reimbursement authority for the Secretary to fund consolidated mail and courier operations, electronic imaging, employee safety and parking, facilities management, security, shipping and receiving, and building operations. The Legislature was notified of this consolidation by a March 3, 2006 letter to the legislative fiscal committees.

**Governor's Budget.** The Governor's Budget includes the redirection of 22 positions and \$2.1 million from Cal-EPA boards, departments, and office to the Secretary of Cal-EPA. This proposal represents full-year costs for centralizing administrative functions at Cal-EPA.

**Justification.** Centralizing selected administrative functions has reduced the number of staff needed to complete the same task, thereby improving efficiency and saving the state money.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal.

## 6. Environmental Protection Indicators of California— Informational Item

**Background.** The Environmental Protection Indicators for California (EPIC) Project was created in 2000-01 to establish and implement a process for developing environmental indicators. Legislation (AB 1360, Steinberg), enacted in 2003, established this program in law. Environmental indicators are scientifically based tools used to track changes that are taking place in the environment.

**Governor's Budget.** The budget does not contain any funds specifically to support the EPIC program. However, the Office of Environmental Health Hazard Assessment has invested a small level of effort (a fraction of one position) in updating the indicators.

**Report Conclusions.** In 2005, the Legislature requested a report in order to update the environmental indicators that are part of the EPIC project. This report has been submitted to the Legislature and states the following conclusions:

- Updated indicators show mixed results that include improvements in California's environmental quality, as well as remaining challenges, and inconclusive trends.
- Carbon monoxide now occurs at levels that meet regulatory standards; ozone and particulate matter continue to occur at unhealthy levels.
- Coastal beach closures increased, while postings declined.
- Population of winter-run Chinook salmon in the Central Valley has increased, but it still remains low.
- Diversion of solid waste and recycling of waste tires continue to increase.
- The amount of hazardous waste shipped for treatment, storage or disposal has been fluctuating, but appears to be on a downward trend when viewed per unit of economic activity.
- The detection of illegal pesticide residues in produce remains at an extremely low rate of less than two percent.

- Indicators of climate change – such as air temperature, spring snowmelt, and sea level rise – show unfavorable trends.

The report also indicates that there continue to be data gaps that need to be filled to better understand the environment. However, these data gaps were not evaluated as part of this study due to the state's fiscal condition.

The report also notes that a long-term commitment to robust environmental indicators will better enable Cal-EPA and other regulatory agencies to identify problem areas, craft cost-effective strategies and regulations, make adjustments to programs, and report on environmental outcomes.

#### **Questions.**

- Staff understands that Cal-EPA has reviewed the use of science and data across all of the Cal-EPA boards, departments, and office. What are the outcomes of this review?
- What is the Secretary doing to identify existing data gaps and develop strategies for filling those gaps?

## **7. Environmental Education Program**

**Background.** Legislation (AB 1548, Pavley), enacted in 2003, created the Education and Environment Initiative (EEI), which mandates that school boards include environmental principles in their instructional materials. Further legislation (AB 1721, Pavley), enacted in 2005, gives decision making authority for incorporating environmental principles into curriculum to the Superintendent of Public Instruction and the State Board of Education. Development of the environmental principles under the EEI has been managed by the Integrated Waste Management Board.

**Governor's Budget.** The Governor's budget includes \$3.5 million to support the implementation of this program (\$3.3 million from the Integrated Waste Management Account and \$200,000 from the Waste Discharge Permit Fund). These funds support 5.5 positions and include planning for model curriculum and curriculum development.

**Missing Report.** In 2005, the Legislature requested the Secretary to report by January 10, 2006, on a balanced funding mix for the EEI. The Legislature has not received this report.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this item open pending receipt of the required report.

## 3360 California Energy Commission

### 1. Climate Change Initiative

**Governor's Budget.** The Governor's Budget proposes \$612,000 to support four positions and \$200,000 in contracts to implement the Governor's greenhouse gas (GHG) emission reduction targets. The new positions will support the following activities:

- Evaluate and verify electricity carbon policies.
- Evaluate and verify industrial carbon policies.
- Improve the statewide GHG emission inventory.
- Focus on economic issues related to climate change, including overseeing \$5 million in PIER contracts related to this subject.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

### 2. Public Interest Energy Research Natural Gas Program

**Background.** In 2004, the California Public Utilities Commission (CPUC) issued a decision that established the Public Interest Energy Research (PIER) Natural Gas Program and designated CEC as the administrator of the program. This program will focus on research on and development of science and technologies that benefit natural gas end-users in all market sectors. This program is parallel to the department's PIER Electricity Research Program which is funded by a surcharge on electricity ratepayers.

**Governor's Budget.** The Governor's Budget proposes \$504,000 to support five new positions to identify, develop and manage energy-related research projects that benefit natural gas ratepayers.

**Workload Justification.** The Governor's proposal would double the staff currently supporting the natural gas research program at the CEC. The additional staff is requested to meet the new mandate that some funds be dedicated to transportation-related research. Additional staff is also requested because the CPUC's annual funding allocation to the CEC for this program is scheduled to grow to \$24 million annually over the next four years.

**Update on Planning Process.** Legislation (SB 76, Budget), enacted in 2005, requires that one-half of the PIER natural gas funds be expended pursuant to a research program jointly approved by the Air Resources Board (ARB) and the Commission. Furthermore, the legislation allowed up to one-third of the funds allocated jointly with ARB to be expended on transportation-related research. The CEC indicates that it has formally engaged the ARB in a joint planning process to develop the 2006 research plan for the natural gas PIER program. The 2006 research plan allocates an initial \$3 million to transportation-related projects. Funding for specific projects has not yet been awarded.

**Update on Report.** Legislation (SB 71, Budget), enacted in 2005, requires that the CEC prepare a five-year long-term workload and staffing plan for the PIER programs by March 31, 2006. The department has released a draft five-year investment plan.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open and request the following information:

- Additional information on the joint planning process between CEC and ARB.
- The final draft of the five-year investment plan.

### 3. Verification and Evaluation of Energy Efficiency Savings

**Background.** A 2005 decision by the CPUC created a new administrative structure for evaluating the energy efficiency savings of programs implemented by the investor-owned utilities. The new administrative structure involves additional staff at the CPUC and CEC to assume responsibility for the evaluation, monitoring, and verification of energy savings associated with over \$600 million in annual expenditures on energy efficiency programs by the investor-owned utilities. Formerly, the utilities were responsible for measurement and evaluation of their own energy efficiency programs.

**Governor's Budget.** The Governor's Budget proposes \$209,000 from the Energy Resources Program Account to fund two new positions to produce independent and verifiable estimates of the net energy and peak savings from investor-owned utility energy efficiency programs.

**Workload Justification.** The CEC indicates that it has been forced to redirect staff from programs that focus on demand response in order to start implementing the new measurement and evaluation process. Staff finds that the recent decision by the CPUC has created a new responsibility for the CEC to be carried out jointly with CPUC. Therefore, additional staff at CEC is warranted for this purpose.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget proposal.

### 4. Other Budget Proposals

**Governor's Budget.** The Governor's budget also includes funding for the following purposes:

- **Information Technology.** The budget includes \$311,000 from the Energy Resources Program Account to support two positions to strengthen the Commission's Information Technology Services Branch and \$125,000 in one-time funding to replace the CEC's current electronic mail system.
- **Governmental Affairs.** The budget includes \$209,000 from the Energy Resources Program Account to support two positions for the Commission's Office of Governmental Affairs to enable the Commission to respond in a timely manner to inquiries from the Legislature.

**Workload Justification.** The CEC currently has 18 positions and additional contractors supporting the Information Technology Services Branch. The Commission has indicated that this staffing level is not adequate to address the additional information technology applications currently being supported, including video conferencing, blackberry support, and new electronic mail filtering controls. Furthermore, the current Novell GroupWise electronic mail system is outdated and does not integrate well with other applications.

The Commission currently has three staff persons supporting its Office of Governmental Affairs. This office is responsible for preparing bill analyses and responding to inquiries from the Legislature and other branches of government. The Commission indicates that their workload (number of requests and number of bill analyses) has grown over the past five years and has resulted in a significant amount of overtime for the current staff.

**Staff Recommendation.** Staff recommends that the Subcommittee approve these proposals.

## 5. Frontier Line—Informational Issue

**Background.** In April 2005, the Governors of California, Nevada, Utah, and Wyoming signed an agreement to develop the “Frontier Line,” which is a transmission line originating in Wyoming with terminal connections in the other three states.

**Governor’s Budget.** The Governor’s budget does not propose funding to support the Frontier Line.

**Support Continues for Frontier Line.** Funding to support development of the Frontier Line was rejected by the Legislature in 2005. However, staff finds that the administration continues to be involved in this effort. A new Frontiers Power Summit is scheduled in April to continue the development of this transmission project.

Staff finds that the Frontier Line, as currently envisioned, would enable California utilities to import cheap coal-fired electricity generation from Wyoming. The burning of coal is a major source of greenhouse gas (GHG) emissions and it is unclear how the state can reduce its GHG emissions according to the Governor’s goals and also increase imports of coal-fired electricity generation.

### Questions.

- What is CEC’s current involvement in the Frontier Line project?

## 8660 California Public Utilities Commission

### 1. Climate Change Initiative

**Governor's Budget.** The Governor's budget proposes to redirect 12 positions and use them to fund various climate change activities:

- One position to coordinate climate change activities at the PUC to ensure climate change goals are being met.
- Three positions to be used to accelerate the renewable portfolio standard to 22 percent by 2020.
- One position to support the solar initiative, including expanding the current distributed generation program and consolidating other existing solar programs.
- Three positions to develop new programs and accelerate existing energy efficiency programs.
- One position to support the Governor's Executive Order to encourage green technology adoption by state buildings.
- Two positions to evaluate cap and trade programs and strategies for measuring and verifying emission reductions.
- One position to develop a new combined heat and power program for projects that are over five megawatts.

Half of the redirected positions are proposed to come from the consumer protection payphone program and the other six positions are redirected from other activities within the energy division.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 3980 Office of Environmental Health Hazard Assessment

**Background.** The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

**Governor's Budget.** The Governor's Budget proposes \$14 million to support OEHHA in the budget year. This is a slight increase in funding from the estimated expenditures in the current year due to new budget proposals. General Fund support for OEHHA remains relatively unchanged in the budget year.

<b>Summary of Expenditures</b> (dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Health Risk Assessment	\$15,726	\$16,385	\$659	4.2
Administration	2,985	3,011	26	0.9
<i>less distributed administration</i>	<i>-2,985</i>	<i>-3,011</i>	<i>-26</i>	<i>0.0</i>
<b>Total</b>	<b>\$15,726</b>	<b>\$16,385</b>	<b>\$659</b>	<b>4.2</b>
<b>Funding Source</b>				
General Fund	\$8,303	\$8,377	\$74	0.9
Special Funds	5,281	5,803	522	9.9
<i>Budget Act Total</i>	<i>13,584</i>	<i>14,180</i>	<i>596</i>	<i>4.4</i>
Federal Trust Fund	500	500	0	0.0
Reimbursements	1,642	1,705	63	3.8
<b>Total</b>	<b>\$15,726</b>	<b>\$16,385</b>	<b>\$659</b>	<b>4.2</b>

### 1. Funding Adequacy

**Background.** During the early part of this decade, OEHHA suffered significant General Fund reductions to its programs. Over the past several years, concerns have been raised by the Legislature regarding the relative instability of OEHHA's funding due to its reliance on the General Fund. In response to this concern, actions have been taken to shift some of the office's budget to appropriate special fund sources.

In 2005, OEHHA submitted a legislatively mandated report on long-term baseline funding requirements. This report identified the need for an additional \$6 million to fully fund OEHHA's statutory mandates. Statutory mandates are not being implemented. Because of the funding shortfall, include investigations related to children's health, criteria air pollutants, and pesticide use. The report also identified eligible funding sources for supporting OEHHA's statutory mandates. However, the administration did not recommend any augmentations to OEHHA's budget at this time because there were no balances in special funds available to meet OEHHA's funding needs on an ongoing basis without a fee increase. The funding shortfall reduces the office's ability to address children's health and criteria air pollutants.

The Legislature added \$500,000 in General Fund monies to OEHHA's budget in the current year. These funds are being used to increase activities across all of OEHHA's programs, including children's health, Proposition 65 labeling laws, and pesticide reviews.

**Governor's Budget.** The Governor's Budget includes \$266,000 in special funds to augment the department's Proposition 65 program. These funds will be used to support two 2-year limited-term positions to identify "safe" levels (levels that do not pose a significant health risk) for substances listed under Proposition 65 as causing cancer or reproductive toxicity.

**Workload Justification.** The baseline funding report submitted by OEHHA in 2005 identified an unmet need of nearly \$700,000 in the Proposition 65 program. The General Fund augmentation approved in the current year helped marginally to fund this program, but additional funding is needed to fully implement OEHHA's Proposition 65 mandate. Therefore, the budget proposal is justified based on the department's baseline funding needs. Staff finds that the workload associated with the Proposition 65 program is ongoing. However, the administration proposes funding the additional positions on a limited-term basis because the special funds supporting this augmentation are from fines and penalties and are not a stable funding source.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the following actions:

- Adopt the budget proposal.
- Request that OEHHA work with staff, the LAO, and DOF to identify appropriate special funds available to fund other unmet baseline funding needs at OEHHA on an ongoing basis.

## 2. Lead in Candy

**Background.** The presence of hazardous levels of lead in imported Mexican candy has been recognized as a problem for a number of years. In 2004, the Department of Health Services (DHS) issued two health advisories regarding lead-contaminated candies. Legislation (AB 121, Vargas), enacted in 2005, requires OEHHA to set a lead standard for certain candies and candy wrappers by July 1, 2006. The legislation also requires OEHHA to develop sampling and testing protocols to measure lead in candy and candy wrappers and update the lead standards every three to five years. The legislation requires DHS to operate an ongoing regulatory program to enforce OEHHA's standards.

**Governor's Budget.** The Governor's Budget includes \$125,000 from the General Fund to support one 2-year limited-term position to set lead standards for certain candies and candy wrappers. The proposal also proposes \$58,000 in General Fund monies for ongoing support of this program starting in 2008-09.

**Workload Justification.** The legislation requires OEHHA to set a lead standard by July 1, 2006. This deadline is impossible given the funding shortfalls existing at the department. Furthermore, it normally takes two to ten positions, one to several years, to complete a risk assessment of this magnitude. Nevertheless, the office proposes to complete this activity with one position over a two-year period by building on existing research and assessments.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

### 3. Health Risks of Dry Cleaning Alternatives

**Background.** Legislation (AB 998, Lowenthal), enacted in 2003, requires the Air Resources Board (ARB) to collect a fee from dry cleaning institutions for the use of perchloroethylene (Perc). These funds will be used to operate a grant program and a demonstration program that encourages dry cleaning institutions to replace Perc systems with other nontoxic and non-smog forming alternatives. Perc is a toxic air contaminant, pollutes groundwater, and is also listed as a carcinogen under Proposition 65. The South Coast Air Quality Management District plans to phase out the use of Perc in dry cleaning by 2020 within its geographic jurisdiction.

**Governor's Budget.** The Governor's Budget includes \$50,000 in reimbursements from the ARB to support 0.5 positions at OEHHA to evaluate the health risks of alternative dry cleaning methods to Perc.

**Workload Justification.** The OEHHA is already involved in evaluating five Perc alternatives being considered by ARB. Presently, OEHHA is redirecting existing staff away from other mandated programs to assist in evaluating the potential toxicity of these Perc alternatives. This budget proposal would adequately fund this activity and reduce the need to redirect staff from other mandates.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

## 3900 Air Resources Board

**Background.** The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate *stationary sources* of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is primarily responsible for the regulation of *mobile sources* of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

**Governor's Budget.** The Governor's Budget proposes \$248 million to support the ARB in 2006-07. This is a two percent reduction from estimated expenditures in the current year due to one-time expenditures in the 2005-06 budget to retrofit old school buses and purchase air pollution control and monitoring equipment. General Fund support for the ARB remains relatively unchanged in the budget year.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Mobile Source	\$216,948	\$210,045	-\$6,903	-3.2
Stationary Source	43,382	43,985	603	1.4
Subvention	10,111	10,111	0	0.0
Capital Outlay	103	1,120	1,017	987.4
Administration	11,619	11,074	-545	-4.7
<i>less distributed administration</i>	<i>-11,619</i>	<i>-11,074</i>	<i>545</i>	<i>0.0</i>
Total	\$270,544	\$265,261	-\$5,283	-2.0
<b>Funding Source</b>				
General Fund	\$2,211	\$2,280	\$69	3.1
Special Funds	251,363	245,399	-5,964	-2.4
<i>Budget Act Total</i>	<i>253,574</i>	<i>247,679</i>	<i>-5,895</i>	<i>-2.3</i>
Federal Trust Fund	12,389	12,892	503	4.1
Reimbursements	4,581	4,690	109	2.4
Total	\$270,544	\$265,261	-\$5,283	-2.0

## 1. Climate Change Initiative.

**Governor's Budget.** The budget includes \$5.2 million to support the Governor's greenhouse gas emission reduction targets. The budget includes \$1.9 million from the Motor Vehicle Account (MVA) and \$3.3 million from the Air Pollution Control Fund (APCF). The MVA funds will be used to support 15.5 positions and the APCF will be used to fund one-time contracts for various research efforts. The additional positions will support the following activities:

- **Bio-fuel Blends.** Two positions to develop and propose regulations related to bio-fuel blends.
- **Perfluorocarbon Emission Reductions.** One position to develop control measures and technology options for reducing emissions from the semi-conductor industry.
- **Manure Management.** One position to develop and propose regulations for manure management options.
- **Refrigerated Transport.** One position to develop and propose regulations to require new refrigerated trucks to be equipped with electric stand-by systems.
- **Port Electrification.** Two positions to develop and propose measures to phase in infrastructure allowing vessels to plug in for shore-side power.
- **Hydrofluorocarbon Emission Reductions.** Three positions to develop and adopt measures to maximize the use of low global warming potential refrigerants in mobile, commercial and residential air conditioning.
- **Light-Duty Vehicles.** One position to develop and propose policies for the implementation of lightweight materials and cool paints to reduce emissions from light-duty vehicles.
- **Heavy-Duty Vehicles.** Two new positions to implement AB 1493 (Pavley) and the Teach the Trainer Program for increasing fuel efficiency.
- **Economic Analysis.** 1.5 positions for continued economic analysis related to various GHG emission reduction efforts.
- **Climate Change Science.** One position to support analysis related to climate change science.

The contract funds are allocated equally between contracts that explore the relationship between air quality and climate change and research that provides direct support for the board's regulatory strategies.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 2. Hydrogen Highway

**Background.** Legislation (SB 76, Budget) was enacted as part of the 2005-06 budget to provide the ARB with \$6.5 million in special funds to fund the Governor's Hydrogen Highway initiative. These funds became available for expenditure on January 1, 2006 for the following:

- Establish up to three publicly accessible demonstration hydrogen fueling stations.
- Lease up to 12 hydrogen-powered vehicles, and purchase up to two hydrogen-powered shuttle buses for use at airports or universities.

- Employment of two-year limited-term staff to support the effort.

The legislation required that the funded activities contribute to the following environmental goals by 2010:

- A 30 percent reduction in greenhouse gas emissions.
- Hydrogen production for vehicles to be derived from 33 percent new renewable energy sources.
- No increase in smog-forming emissions.

The legislation also required the ARB to report every six months on its implementation efforts including the funding spent and its compliance with the environmental goals referenced above. The legislation also included a report due on December 31, 2006 on the status of transportation-related hydrogen activities in other states, including a discussion of siting criteria and selection of actual sites, the impact of hydrogen highway infrastructure and activities on affected communities and neighborhoods, and the development of hydrogen related business activity in California.

**Governor's Budget.** The Governor's Budget includes \$6.5 million in special funds for the second year of implementation of the Governor's Hydrogen Highway Blueprint. A portion of the funding (\$1.5 million) will be used to leverage private matching funds to construct three publicly accessible hydrogen fueling stations. The remaining funding (\$5 million) will enable the state to leverage federal matching funds for five fuel cell buses to be used in public transit fleets.

The budget also proposes to re-appropriate \$3.5 million allocated to the board in the current year. The board does not anticipate that these funds will be expended before December 31, 2006 because of the myriad of issues that need to be worked out before a hydrogen fueling station can be sited.

**LAO Recommendation.** The LAO recommends denying the administration's request for additional funding for the Hydrogen Highway. The LAO finds the request for additional funding premature until the board submits a statutorily required report to the Legislature. This report is intended to provide the Legislature with information that will enable an evaluation of whether continued funding for this purpose is warranted. This report is not due to the Legislature until December 31, 2006. Furthermore, the LAO indicates that approximately \$3.5 million of the original appropriation will be available for expenditure in the budget year. Therefore, it is unclear why additional funding is needed.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

### 3. Innovative Clean Air Technologies Grant Program

**Background.** The Innovative Clean Air Technologies Grant Program co-funds practical demonstrations of new or improved technologies and new technological applications that can reduce emissions of air pollutants from mobile and stationary sources. This program is generally allocated around \$1 million annually from the Air Pollution Control Fund (APCF).

**Governor's Budget.** The Governor's Budget includes \$2 million in APCF for a one-time expansion of the Innovative Clean Air Technologies Grant Program. The expansion would be used to accelerate the commercialization of new and innovative technologies for reducing GHG emissions.

**Justification.** Additional technologies are needed to meet GHG emission reduction goals. These funds will help to demonstrate new technologies that reduce GHG emissions.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget proposal.

## 4. Air Quality Enforcement

**Background.** In 2005, the Secretary for Cal-EPA led an agency-wide enforcement initiative to improve the management of information to better prioritize enforcement activities based on the greatest risks to the environment.

**Governor's Budget.** The budget includes \$5.1 million to increase ARB's enforcement efforts. The budget includes \$2.7 million from the Motor Vehicle Account (MVA) and \$2.3 million from the Air Pollution Control Fund (APCF). The MVA funds will be used to support 20 new positions and \$252,000 in contracts. The APCF funds will fund the one-time purchase of additional equipment to enhance the board's enforcement efforts. The activities proposed for funding include:

- **Heavy-Duty Diesel.** Six new field staff to enforce idling restrictions and additional scan tools to conduct field enforcement. One new position and a new vehicle for the Vehicle Emission Evaluation Training program.
- **Mobile Source.** Purchase of two additional scan tools to conduct taxi cab enforcement at the state's major airports. Seven new positions to create a new branch to focus on enforcement of on-board diagnostic systems and funding for four scan tools and laptops to assist in enforcement.
- **Fuel Enforcement.** Four new inspector positions for sampling and inspection of distribution facilities and to implement Cargo Tank Vapor Recovery regulations and funding for additional mobile laboratory equipment.
- **Consumer Products.** Two new positions to enforce the portable fuel container, consumer products, aerosol coating, and architectural coating regulations and funding to replace obsolete equipment used to determine the volatile organic compound content of consumer products.
- **Stationary Sources.** Funding for additional respiratory equipment for asbestos inspectors.
- **Training and Compliance.** Funding for equipment and contracts to augment the board's training materials.
- **Portable Emissions Measurement System.** Funding for a portable emission measurement system to be used to test the emissions system of heavy-duty trucks while in use.

**Workload Justification.** The board currently has 81 positions supporting its enforcement efforts. The budget proposal would provide the board with a 25 percent increase in its enforcement resources. Increased enforcement will help the board reduce emissions. The majority of the new enforcement resources are requested for mobile source programs. Justification for the increased enforcement resources are as follows:

- **Heavy-Duty Diesel.** The board currently has 34 positions staffing enforcement of heavy-duty diesel regulations. The budget requests an additional six positions (an 18 percent increase) to enforce new regulations on solid waste collection vehicles, mobile cargo handling equipment at ports, and school bus and commercial vehicle idling.
- **Mobile Source.** The board currently has 11 positions staffing enforcement of mobile source emissions regulations. The budget requests an additional seven positions (a 64 percent increase) to enforce the On-Board Diagnostic (OBD) regulation. The current smog check program has become very dependent on the OBD system. At the same time, software has been specifically designed to disable the OBD system. The board needs to increase its enforcement presence to ensure that OBD systems communicate properly with Smog Check test equipment.
- **Fuel Enforcement.** The board currently has 12 positions staffing fuel enforcement. The budget requests an additional four positions (a 33 percent increase) to enforce gaseous motor vehicle fuel regulations. Due to lack of staffing, these regulations have had minimal enforcement.
- **Consumer Products.** The board currently has seven positions staffing enforcement of consumer product regulations. The budget requests an additional two positions (a 30 percent increase) to address a significant increase in the number of violations and to implement the new portable fuel container regulation.
- **Stationary Source/Special Investigations.** The board currently has 17 positions to enforce stationary source regulations and conduct special investigations. The budget does not request any additional staffing for enforcement in this area.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt this budget proposal.

## 5. Goods Movement Activities

**Background.** California's ports handle nearly 28 percent of the international trade goods entering and leaving the U.S. Based on projections of economic activity in the country and in the state, California's goods movement activity is expected to increase considerably. While there are economic benefits to goods movement, there are also environmental costs. For example, the ports of Los Angeles and Long Beach together contribute 10 percent of the region's nitrous oxide emissions and 25 percent of its diesel particulate matter. Residents living near the busy ports disproportionately experience the negative effects of these pollutants.

The board is limited in regulating many of the emissions sources associated with goods movement, including rail and ship transport. The board is currently working on an Emission Reduction Plan for Ports and International Goods Movement in conjunction with the Business, Transportation and Housing Agency.

The board entered into a memorandum of understanding (MOU) with the major rail companies in the state to voluntarily reduce emissions. The board has been subject to considerable scrutiny for negotiating this MOU without adequate public input. Since then, the board has adopted a policy outlining a process for considering future MOUs that would require more public input.

**Governor's Budget.** The budget includes \$1.7 million from the Motor Vehicle Account (MVA) to support the reduction of air emissions related to goods movement. The funding will be used to support eight new positions and \$500,000 in ongoing contracts. The funding will support the following:

- Five positions to support the development of an emissions inventory, air quality modeling, regulatory strategies and incentive strategies for reducing air pollution related to goods movement.
- One position to support outreach and technical assistance.
- Two positions to increase enforcement activities.
- \$700,000 (\$500,000 ongoing) in contract funding that will be used to support technology demonstration and development of technologies that would assist in reducing emissions from goods movement.

**Workload Justification.** The board indicates that it currently has redirected 28 existing positions to work on goods movement related activities. These redirections have negatively impacted and slowed down implementation of existing programs. Programs impacted include: the State Implementation Plans required to meet federal Clean Air Act standards in June 2007, the board's Diesel Reduction Plan and work related to toxic air contaminants. The board indicates that some of the current activities related to goods movement are one time and do not require ongoing staffing.

**LAO Issue.** The LAO indicates that the State Constitution limits the use of MVA funds supporting the mitigation of environmental effects resulting from operation of motor vehicles on the State's public streets and highways. Those vehicles do not include ships, locomotives, or most cargo moving equipment at the ports. Therefore, the LAO recommends that the board resubmit its funding proposal so that it limits MVA funding to those mitigation activities directly related to motor vehicle use on public roadways and suggests alternative funding sources for the mitigation of environmental effects ineligible for MVA funding. The board continues to justify its use of MVA funding by indicating that nearly all goods moved through California ports are ultimately transported on public streets by trucks.

**Staff Comments.** Staff finds that the comprehensive approach taken by the board to reduce emissions from the goods movement sector is the most beneficial approach to reducing emissions. Furthermore, staff finds that nearly all goods shipped through the ports are moved by trucks at some point. Therefore, staff finds that MVA funds are eligible for funding activities related to reducing goods movement emissions.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this proposal.

## 6. NAFTA-Related Air Emissions—Informational Item

**Background.** The U.S. Supreme Court ruled in 2004 that a full environmental assessment of the impacts of implementing the transportation provisions of NAFTA was not required. This ruling allows commercial travel beyond the current 20 mile commercial zone. The ARB has estimated that an additional 30,000 heavy-duty commercial vehicles are expected to cross daily into the U.S. from Mexico. Since Mexico's fleet of trucks is, on average, considerably older than the U.S. fleet, additional emissions are expected to result.

The 2005 Budget Act provided the ARB with \$1.6 million to support 16 new positions and fund contracts with the California Highway Patrol to augment the Heavy-Duty Vehicle Inspection Program along the California-Mexico border and in the Port of Long Beach.

**Actual Emissions Remain Uncertain.** In 2005, the Legislature requested that the ARB complete a report on the actual increase in emissions resulting from free commercial travel between the U.S. and Mexico. The ARB has submitted this report. The report indicates that free commercial vehicle travel between the U.S. and Mexico has not begun. However, full execution of the transportation provisions of NAFTA is imminent and has been delayed only by negotiations related to the implementation of U.S. safety regulations.

Since free commercial travel has not commenced, actual emissions from NAFTA remain uncertain. However, some studies estimate that free commercial travel could increase smog forming pollution in California by up to 50 tons per day. The board estimates that, by enforcing heavy-duty vehicle regulations, it will be able to prevent Nitrous Oxide (NOx) emissions by 2.9 tons per day and Particulate Matter (PM) by 0.12 tons per day. Obviously, these numbers are considerably less than the 50 tons per day estimated by some studies. The estimates are based on considerably different assumptions about how many U.S. vehicles will be displaced by vehicles from Mexico. Some studies find that there will be a 50 percent displacement, but ARB's surveys show a much lower one percent displacement rate. Furthermore, emissions will also depend on ARB's ability to enforce its heavy-duty vehicle regulations on the commercial vehicle fleet from Mexico and achieve compliance. Last year the ARB reported that 90 percent of the border violations were delinquent.

**Staff Comments.** Staff continues to be concerned that the current program is inadequate to address the increase in emissions that could result from free commercial travel between the U.S., and Mexico. However, until actual data is received regarding the displacement of U.S. vehicles by vehicles from Mexico it is difficult to determine whether the board has adequate enforcement resources.

### Questions.

- Does the board have a system for assessing the adequacy of its current enforcement program?
- Does the board have a system in place to measure the displacement of U.S. vehicles with vehicles originating in Mexico?
- What activities are the new staff engaged in since free commercial travel between the U.S. and Mexico have not commenced?

## 7. Carl Moyer Program—Cleanup Trailer Bill Language

**Background.** The Carl Moyer Program provides incentive payments to retrofit or replace dirty diesel engines. Since the program's inception in 1998, 7,000 engines have been replaced, resulting in NOx emission reductions of 18 tons per day and PM emission reductions of one ton per day. The board receives \$86 million annually to fund the Carl Moyer Program from the smog check fee and tire fee. In addition, local air districts can collectively raise \$55 million annually for the Carl Moyer Program if they elect to increase motor vehicle fees.

**Governor's Budget.** The Governor's budget proposal includes trailer bill language to cleanup 2004 legislation (AB 923, Firebaugh) that dedicated a portion of the tire fee to the Carl Moyer Program. The trailer bill language is needed to avoid a statutorily mandated reduction in the tire fee that will reduce funding for the Carl Moyer Program by \$4.2 million in the budget year and \$8.3 million starting in 2007-08.

**Staff Comments.** Staff finds that the reduction of the tire fee was not intended to impact the Carl Moyer Program, and was the result of a drafting error in AB 923. Staff concurs that the proposed trailer bill language is needed to maintain the current level of funding for the Carl Moyer Program. Emissions from diesel-powered mobile sources account for over 50 percent of smog forming NOx emissions and these funds are needed to continue to address these sources of air pollution.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the administration's trailer bill language to amend AB 923.

## 8. Lower-Emissions School Bus Program—Informational Item

**Background.** The ARB's Lower-Emissions School Bus Program provides schools with funding to help replace or retrofit diesel school buses to reduce emissions. Since its inception in 2000, the program has allocated over \$75 million to replace over 500 pre-1987 buses and retrofit 3,000 in-use diesel buses with emission control devices.

The 2005 Budget Act provided \$25 million in one-time funding to replace and retrofit some of the state's oldest school buses. The funding was split evenly between awards to purchase new school buses to replace the oldest buses and awards to retrofit in-use diesel buses with emission control technologies.

**Governor's Budget.** The Governor's budget does not include new funding for the Lower-Emissions School Bus Program. School buses are eligible for funding under the Carl Moyer program, but many times they do not compete with other applicants because they have relatively low vehicles miles traveled.

**Update on Allocation.** In late February, the board allocated \$12.5 million to replace around 90 of the oldest school buses still in operation in the state. These funds were allocated to the oldest

school buses first. All of the funds provided for bus replacement will replace pre-1977 buses. These buses do not have emissions controls and also do not meet current safety standards.

The board also allocated \$12.5 million to retrofit 858 pre-1987 in-use diesel buses with emission control technologies. These funds were allocated on a per capita basis to participating air districts. Buses manufactured before 1987 do not have emission control technologies.

**Unmet Need Remains.** The ARB estimates that there are still 300 pre-1977 buses operating in the state even after the 90 oldest buses are replaced this year. As mentioned previously, not only do pre-1977 buses lack emission control technologies, but they also do not meet current safety standards. Furthermore, all buses manufactured prior to 1987 also lack emission control technologies. Children are particularly vulnerable to the health impacts of diesel emissions and this program helps to reduce emission exposure.

**Questions.**

- Does the board plan on allocating additional funds from Carl Moyer to replace or retrofit school buses in the budget year?

## 9. Haagen-Smit Laboratory Seismic Upgrades

**Background.** The Haagen-Smit Laboratory is located in El Monte, California and is the site of the majority of the board's emission testing activities.

**Governor's Budget.** The Governor's budget proposes \$1.1 million from the Air Pollution Control Fund to develop working drawings and to make improvements to the existing building to bring the building into compliance with current code requirements.

**Justification.** A recent seismic evaluation by the Department of General Services found that this building was vulnerable to structural damage in the event of an earthquake. The 2005 Budget Act allocated \$103,000 to develop preliminary plans for the upgrades.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

## 3910 Integrated Waste Management Board

**Background.** The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed of in landfills. The CIWMB administers various programs that promote waste reduction and recycling, with particular programs for waste tire and used oil recycling. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly carried out by local enforcement agencies certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

**Governor's Budget.** The Governor's Budget proposes \$190 million to support CIWMB in the budget year. This is approximately five percent less than in the current year due to revised expenditure projections for the Electronic Waste and Used Oil Recycling programs. The board does not receive any General Fund support.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Waste Reduction and Management	\$201,679	\$191,906	-\$9,773	-4.8
Administration	8,874	8,874	0	0.0
<i>less distributed administration</i>	-8,874	-8,874	0	0.0
<i>less loan repayments</i>	-1,363	-1,694	-331	0.0
Total	\$200,316	\$190,212	-\$10,104	-5.0
<b>Funding Source</b>				
Special Funds	\$199,532	\$189,422	-\$10,110	-5.1
Bond Funds	141	141	0	0.0
<i>Budget Act Total</i>	199,673	189,563	-10,110	-5.1
Federal Trust Fund	91	91	0	0.0
Special Deposits Fund	345	351	6	1.7
Reimbursements	207	207	0	0.0
Total	\$200,316	\$190,212	-\$10,104	-5.0

## 1. Climate Change Initiative

**Governor's Budget.** The Governor's Budget includes \$466,000 in special funds to fund three new positions to expand existing efforts to capture methane from landfills and enhance recycling efforts to meet the Governor's greenhouse gas emission reduction targets.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 2. Waste Tire Recycling Management Program

**Background.** California produces more than 33.5 million waste tires annually. The Waste Board is mandated to regulate and manage waste tires within the state, including developing standards for waste tire facilities and taking enforcement actions against illegal tire facilities and haulers. The board also supports research and development for tire-derived products through grants and loans. The board also provides grants and loans to local governments to encourage proper disposal of waste tires and use of tire-derived materials in transportation projects. These programs are supported by a fee assessed on the retail sale of new tires. The current fee is \$1.75 per tire.

The board reported, in its *Five-Year Plan* for the Waste Tire Recycling Management Program, that it is currently diverting more than 73 percent of waste tires from landfills. The board reports that, in 2003, waste tires were diverted from landfills for the following uses:

- Tire-derived fuel in kilns for making cement (5.4 million tires).
- Alternative daily cover by landfills (4.9 million tires). (Shredded tires are used instead of soil to cover garbage at landfills.)
- Retreads (4.4 million tires).
- Crumb rubber in various applications, including playgrounds and rubber mats (3.4 million tires).
- Various other uses like roofing shingles, sandals, weights, and agricultural uses (2.7 million tires).
- Rubberized asphalt concrete (2.6 million tires).
- Reuse (1.8 million tires).
- Civil engineering projects (1.8 million tires).
- Tire-derived fuel in power plants (1.3 million tires).

**Governor's Budget.** The Governor's Budget includes \$5.2 million in special funds to expand enforcement efforts and increase the board's tire recycling efforts. The funds will support three new positions (\$230,000) to enhance enforcement and a two-year increase in grant funds (\$5 million annually) to encourage the use of rubberized asphalt concrete (RAC) and tire-derived aggregate (TDA).

**Workload Justification.** The Waste Tire Recycling Management Program currently has 15 positions dedicated to enforcement activities. The board indicates that current staffing levels are inadequate to meet the needs of its growing local waste tire enforcement grant program. This program has been increased four-fold over the past two years and currently allocates \$6 million in grants annually. Last year, only 40 percent of the grants awarded to local governments were

expended due to lack of training and instruction by the board. Furthermore, the board also indicates that it is not adequately staffed to track enforcement actions and other data required to engage in routine evaluation of the effectiveness of the board's enforcement program. The additional staff requested will help the board to manage its local grant program and evaluate its enforcement program.

**Enforcement Program Performance.** The board's *Five-Year Plan* includes new performance measures for evaluating the success of the board's enforcement program. The report indicates that the board will prepare several baseline reports in 2007 and 2008 that assess performance of the board's enforcement program. Staff finds that this type of information is needed to determine if the board's allocation of resources is the most effective for maximizing compliance with state waste tire statutes. Furthermore, performance measures would also provide more information on appropriate funding and staffing levels for the enforcement program.

**RAC and TDA Grants.** The board has several grant programs that provide financial incentives to state and local agencies to build projects using RAC and TDA. (TDA can be used in various civil engineering applications as a lightweight fill material in place of traditional aggregate.) The board currently has \$5.4 million in its base budget to fund these grants allocated to the following programs:

- Targeted RAC Incentive Program for first time RAC users (\$2.4 million).
- Continuation of RAC Use Grant Program to provide incentives for the continued use of RAC (\$1.5 million).
- Civil Engineering Grants and Contracts for projects that use TDA in various civil engineering applications (\$1.5 million).

The board proposes to allocate the additional \$5 million requested in the budget to the grant programs listed above. The budget proposal does not identify a specific allocation. This would provide a total of \$10.4 million for RAC and TDA grants in the budget year.

**Legislative Oversight.** The board has indicated that it annually budgets a large portion of its local assistance grants as state operations. Therefore, the budget does not reflect the actual amount of local assistance provided by the board in any given year. The board indicates that it has used this practice to preserve the board's flexibility in shifting tire funding from state operations to local assistance grants, given the changing needs of the program. Staff finds that this practice impedes legislative oversight since the budget does not reflect the actual split between local assistance and state operations. Furthermore, there is no way for the Legislature to ensure that the board actually implements the plan approved in the budget.

**Tire Fee.** The tire fee will be reduced by 25 cents from \$1.75 to \$1.50 starting January 1, 2007. This will reduce the revenues available for expenditure by the tire program. The Waste Board has made significant progress in diverting tires from landfills, but over 25 percent of tires continue to be deposited in landfills. Furthermore, many of the other uses of tires are not environmentally friendly, including burning tires for fuel. More needs to be done to divert tires from landfills to environmentally friendly alternative uses.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve the funding for the new enforcement positions.
- Request that the board work with staff, the LAO, and DOF to develop supplemental report language to provide the Legislature with additional baseline information on the board's tire enforcement program.
- Approve funding for the RAC and TDA grants.
- Request that the board work with staff, the LAO, and DOF to develop budgeting procedures that categorize grant expenditures as local assistance to improve legislative oversight.
- Adopt trailer bill language that would keep the tire fee at its current level (\$1.75).

### 3. Electronic Waste Recycling Program

**Background.** In order to address the growing problem of electronic waste, the Legislature enacted a statute (SB 20, Sher) in 2003, which instituted a system for the recycling and safe disposal of certain electronic devices (mainly devices with cathode ray tubes and LCD screens over four inches in diameter).

Implementation of this program is a joint effort between the Waste Board and the Department of Toxic Substances Control (DTSC). The Waste Board is responsible for administering the electronic waste recovery and recycling payment system, public education, and coordination with local governments to increase collection. The DTSC is responsible for identifying and regulating hazardous waste and ensuring that electronic waste recyclers and processors are complying with the law. Subsequent legislation (SB 50, Sher), enacted in 2004, required the Board of Equalization (BOE) to collect the electronic waste recycling fee.

**Governor's Budget.** The Governor's Budget includes \$1.2 million in special funds to fund 15 new positions to support the Electronic Waste Recycling Program. The board proposes to establish 12 new positions to create a new E-Waste branch at the board and three new positions to initiate fraud investigations.

**Workload Justification.** The board currently has six positions staffing the electronic waste program, including three positions reviewing claims, two positions processing payments for the claims, and one position providing clerical support and database support. The budget proposal more than triples the support for this program. However, current staffing levels were not based on 18 months-plus experience the board now has in managing this new program.

Workload data provided find that additional staff is needed to process recycler claims in a timely manner (30 days). Also, additional staff is needed to implement various other aspects of SB 20, including oversight of the annual manufacturer reporting and net cost reporting by the recyclers and collectors. Furthermore, the board currently has minimal field presence at electronic waste recycling facilities. The positions requested by the department for fraud investigations will help the board in developing a system for identifying fraud.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposals for the Electronic Waste Recycling Program.

#### 4. Project Recycle Program and State Agency Buy Recycle Program

**Background.** The board is responsible for implementing the Project Recycle Program and the State Agency Buy Recycle Program. The Project Recycle Program helps state agencies manage state recycling contracts and provides program implementation assistance for departments to meet the state's 50 percent waste diversion goals. In 2005, only 17 of the 385 total state agencies failed to comply with the 50 percent mandate.

The State Agency Buy Recycle Program is a joint effort between the board and the Department of General Services to implement state law requiring state agencies to purchase minimum levels of products with recycled content. The board estimates that the state government should be purchasing \$3 billion in products with recycled content. However, the most recent reports show that state government is procuring less than \$180 million annually with only 70 percent of state departments reporting. The board is not aware of current compliance rates with this program because the reporting requirement was suspended by legislation (AB 79, Dutra) enacted in 2004. However, 2005 legislation (SB 1106, Environmental Quality Committee) reinstates the reporting requirement and the first reports are due to the board in 2007.

**Governor's Budget.** The budget proposes to shift \$1.1 million that supports the Project Recycle Program and State Agency Buy Recycle Program from the Recycling Market Development Revolving (RMDZ) Loan Subaccount to the Integrated Waste Management Account (IWMA).

**Justification.** The RMDZ Subaccount is a subaccount of the IWMA that was established specifically to provide loans to encourage markets for recycled products. The state recycling programs are more appropriately funded directly out of the IWMA that supports many of the board's programs that provide tools and assistance in diverting waste from landfills.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget request.

#### 5. Recycling Market Development Zone Loan Program

**Background.** The Recycling Market Development Zone (RMDZ) Loan program provides direct loans to manufacturers who make a recycled product in California. The purpose of these loans is to promote market development of waste materials.

**Governor's Budget.** The Governor's budget proposes \$108,000 from the Integrated Waste Management Account to fund one staff counsel position. This position would provide a variety of legal services for the loan program, including support of debt collection activities.

**Justification.** The board currently manages a portfolio of 68 RMDZ loans that generate \$5.5 million in annual principle and interest payments. The loans made by the board are often riskier than loans made by comparable commercial loan programs and require additional legal support. The legal counsel position requested in the budget will provide loan documentation review and assist in the collection of loans that have defaulted. The legal position requested will also support debt collection activities in the tire recycling program.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget request.

## 6. Financial Assurances for Landfills

**Background.** The state took over operations at the BKK Class I landfill in West Covina, California last year, after the BKK Corporation informed the state that it was on the verge of bankruptcy and would no longer be able to fund post closure operations. Taking over management of the BKK landfill has cost the state well over \$15 million General Fund and has also raised concerns about the financial assurances in place to maintain landfills after they close.

Current financial assurance requirements at solid waste landfills do not necessarily provide for longer-term protection of public health and safety beyond the first 30 years of post-closure maintenance. Under current law, operators are responsible for post-closure maintenance until the waste no longer poses a threat, but they are only required to provide financial assurance for the first 30 years of post-closure maintenance. However, because current “dry tomb” landfills may, in some cases, continue to pose a threat to the public health and safety beyond that time frame, some stakeholders consider the 30-year minimum to be an inadequate standard.

The board has hosted two workshops to explore optional financial mechanisms for long-term protection of public health and safety from pollution caused by closed landfills. The board also held three working group meetings with stakeholders and plans to return to the board this summer with potential statutory and regulatory options for addressing this issue.

**Staff Recommendation.** Staff recommends that the Subcommittee request that the board work with staff, the LAO, and DOF to develop supplemental report language to provide the Legislature with recommendations for providing additional financial assurances for post-closure landfills to ensure the protection of public health and safety.

## 7. Universal Waste—Informational Item

**Background.** On February 9, 2006, regulations changed so that all wastes considered universal wastes are now banned from the trash. The following common items considered universal wastes include the following:

- All fluorescent lamps and tubes
- All batteries
- All electronic devices
- Thermostats that contain mercury

The board has indicated that it has taken the following actions, in conjunction with the Department of Toxic Substances Control (DTSC), to encourage both household and small business compliance with regulations and to promote local development of infrastructure for convenient disposal of the items:

- Developed a universal waste team made up of the board and DTSC to coordinate universal waste actions.

- Funded contracts to explore different models for diverting universal waste from landfills.
- Developed corporate retail take-back partnership programs.
- Provided Household Hazardous Waste grants to projects that develop innovative universal waste management strategies and planning.
- Developed web-pages that provide uniform and consistent information on the proper disposal of universal waste.

**Staff Comments.** Staff finds that the actions listed above are a good first step to ensuring compliance with the new universal waste rules. However, staff also finds that much more needs to be done to ensure higher rates of compliance.

**Questions.**

- What policies does the board plan to pursue to divert the universal waste streams from landfills?

## 8. Manufacturer Take-Back Programs

**Background.** Manufacturer "take back" programs are becoming increasingly important in achieving global waste reduction objectives. These programs are being developed in the European Union, and elsewhere, and require manufacturers to extend their responsibility for products beyond manufacturing and sale, and to extend their responsibility to the re-use and recycling of products for the entire life-cycle of a product.

**Staff Comments.** California has begun to implement manufacturers' take-back programs. These include take-back programs for cell phones, rechargeable batteries, and video display devices. Other such programs are being developed in the private sector. However, more of these programs are needed to make further progress in recycling and waste diversion. This is especially true for the manufactured goods section which currently makes up three-quarters, by weight, of the materials discarded in landfills.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt supplemental report language, due to the Legislature January 10, 2007, requiring the board to prepare a report on the feasibility of requiring most or all manufacturers of goods purchased or procured by the state to be subject to extended producer responsibility, including recommendation of a date by which this could be implemented.

## 3930 Department of Pesticide Regulation

**Background.** The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department: (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

**Governor's Budget.** The Governor's Budget proposes \$59 million to support DPR in 2006-07, which is approximately the same level of expenditures as in the current year. The department does not receive any General Fund support.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Registration and Health Evaluation	\$18,446	-	-	-
Pest Management and Environmental Activities	42,262	-	-	-
Pesticide Programs	-	62,115	-	-
Administration	8,822	8,941	119	1.3
<i>less distributed administration</i>	-8,822	-8,941	-119	0.0
<b>Total</b>	<b>\$60,708</b>	<b>\$62,115</b>	<b>1,407</b>	<b>2.3</b>
<b>Funding Source</b>				
Special Funds	\$58,035	\$59,434	\$1,399	2.4
<i>Budget Act Total</i>	<i>58,035</i>	<i>59,434</i>	<i>1,399</i>	<i>2.4</i>
Federal Trust Fund	2,194	2,202	8	0.4
Reimbursements	479	479	0	0.0
<b>Total</b>	<b>\$60,708</b>	<b>\$62,115</b>	<b>\$1,407</b>	<b>2.3</b>

### 1. Mill Assessment Collection

**Background.** California assesses a fee on all pesticides (agricultural and nonagricultural) at the point of first sale in the state. This fee is paid either by the pesticide manufacturer, distributor, or retailer. The current mill assessment rate is 21 mills (2.1 cents per dollar of sales). Mill assessment revenues are the major source of funding for the state's pesticide regulatory program.

A department audit identified that the mill assessment was not being collected on a large number of pesticide products being sold at nationwide chain stores. Furthermore, the audit discovered that these stores were also selling a large number of pesticide products that had not been registered by the department. The department estimated that, in 2005, the state was failing to collect at least \$4 million in mill revenues (mainly from nationwide chain stores).

Legislation (AB 1011, Matthews) was enacted in 2005 to address the loophole uncovered by the department's audit activities. The legislation expanded the pesticide broker licensing requirements to include all first sellers of pesticides in California, which required nationwide chain stores to register as pesticide brokers. By licensing these sellers, the department anticipates that it will better be able to track the collection of the mill assessment and the products sold to ensure that unregistered pesticide products are not being sold in California.

**Governor's Budget.** The Governor's Budget includes \$425,000 from the Department of Pesticide Regulation fund to support four new positions to ensure that all sellers of pesticides are in compliance with licensing and pesticide product registration requirements.

**Workload Justification.** The complex distribution chains of many companies have made it difficult to determine when the first sale of a pesticide product takes place. (The mill assessment is assessed at the first sale of pesticides products in California.) The department has identified the following gaps in mill assessment collection and noncompliance with product registration requirements:

- Internet and mail-order catalog sales.
- Intermediary or third-party distributors that transport pesticides from manufacturers out of state to retail outlets in California.
- Nationwide chain stores that have national purchasing power and their own product distribution networks.

Furthermore, the LAO has identified an increase in audit staff at the department as an option for increasing mill collection compliance.

**Additional Mill Revenues Likely.** The department indicates that it has licensed ten new pesticide brokers since the new statute went into effect on January 1, 2006. The department also indicates that it expects additional revenues from the mill assessment to be received within the budget year. However, the Governor's budget does not assume a significant increase in revenues collected from the mill assessment.

**Funding Needs at the Department.** The department suffered over \$7 million in General Fund reductions to its programs over the past several years. Funding reductions negatively impacted the department's efforts to evaluate major environmental and health impacts posed by pesticide use, to develop integrated pest management programs, and to improve the timeliness of the pesticide registration process. Specifically, the department suffered an \$833,000 reduction in its risk assessment program.

**Risk Assessment Report.** The department has submitted the report requested by the Legislature in 2005 on the department's risk assessment process and level of activities. The department's report indicates that it conducted risk assessments for seven active ingredients in 2004-05. However, only a few of these risk assessments were completed in the prior year.

The report also illustrates that, over the past few years, the department has made its risk assessment process more comprehensive. For example, the department indicates that it now considers all appropriate exposure routes and scenarios when it initiates the risk assessment of a pesticide. Furthermore, the department also indicates that it will evaluate every pesticide as a possible toxic air contaminant candidate. Staff finds that this comprehensive approach to completing risk assessments improves protection of human health. However, staff also finds that, given current staffing levels, this analysis is often lengthy and does not result in a timely determination of the environmental and health impacts posed by pesticide use.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Adopt the budget proposal to augment audit resources.
- Adopt a conservative revised revenue requirement (\$500,000) for the Department of Pesticide Regulation Fund due to increased mill revenues.
- Adopt a \$500,000 increase to the department's risk assessment activities to partially backfill the General Fund reduction made to this program earlier this decade.

## 2. Department Budget Reorganization

**Background.** When the department was transferred from the Department of Food and Agriculture to Cal-EPA, the department's budget was split into two programs. These programs include the Registration and Health Evaluation program and the Pest Management, Environmental Monitoring, Enforcement and Licensing program.

**Governor's Budget.** The Governor's Budget proposes to consolidate the department's two budget programs. This action will not impact the department's organizational structure. This proposal also provides additional information in the budget display on funding levels for the department's 11 program functions.

**Justification.** The department has indicated that the original budget program split between the two programs was arbitrary and not based on the department's current organization. The consolidation of the department's two budget programs will enhance legislative oversight since the department has provided additional information on the department's budget in the budget display.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget request.

## 3940 State Water Resources Control Board

**Background.** The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous regional boards, regulates water quality in the state. The regional boards — which are funded by the state board and are under the state board's oversight — implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The board carries out its water quality responsibilities by: (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

**Governor's Budget.** The Governor's Budget proposes \$462 million to support SWRCB in the budget year. This proposal is approximately \$400 million less than current year expenditure levels, mainly due to a reduction in bond funding available for appropriation. The budget proposes a slight reduction in General Fund support for the board due to a redirection of positions to the Secretary for Environmental Protection to coordinate environmental issues related to the California/Mexico border region.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Water Quality	\$1,027,553	\$618,834	-\$408,719	-39.8
Water Rights	12,717	13,428	711	5.6
Administration	17,706	17,222	-484	-2.7
<i>less distributed administration</i>	<i>-17,706</i>	<i>-17,222</i>	<i>484</i>	<i>0.0</i>
<b>Total</b>	<b>\$1,040,270</b>	<b>\$632,262</b>	<b>-\$408,008</b>	<b>-39.2</b>
<b>Funding Source</b>				
General Fund	\$29,694	\$28,760	-\$934	-3.1
Special Funds	355,730	363,634	7,904	2.2
Bond Funds	484,220	69,059	-415,161	-85.7
<i>Budget Act Total</i>	<i>869,644</i>	<i>461,453</i>	<i>-408,191</i>	<i>-46.9</i>
Federal Trust Fund	128,835	128,898	63	0.0
Reimbursements	9,913	9,999	86	0.9
State Water Quality Control Fund	22,441	22,197	-244	-1.1
State Water Pollution Control Revolving Fund	-2,682	-2,682	0	0.0
Petroleum Underground Storage Tank Financing Account	12,118	12,397	279	2.3
<b>Total</b>	<b>\$1,040,269</b>	<b>\$632,262</b>	<b>-\$408,007</b>	<b>-39.2</b>

## 1. Monitoring Activities

**Background.** The state's ambient water monitoring programs include the Surface Water Ambient Monitoring Program (SWAMP). Funding for ambient water quality monitoring was negatively impacted by General Fund reductions during the first part of this decade. The board has broad deficiencies in its current ambient water monitoring program and lacks critical information needed to support management decisions. Specifically, the Total Maximum Daily Loads (TMDL) program, agriculture waiver program, and basin planning activities are in critical need of better water quality monitoring data.

**Governor's Budget.** The Governor's Budget proposes \$8.5 million in special and federal funds (Section 106 funds) to improve the SWAMP Program. About \$4 million of this increase is proposed as a one-time augmentation to expand water monitoring infrastructure. Funding this

program will result in a \$4 million increase to National Pollutant Discharge Elimination System (NPDES) permit fees. These fees can be increased by the SWRCB.

**Justification.** There are considerable unmet monitoring needs at the board. Currently, the SWAMP program is monitoring only about 50 sites statewide. This level of monitoring leaves significant data gaps since many of the state's water bodies remain unmonitored. Furthermore, federal law directs that Section 106 federal funds be used, at least in part, to support a robust monitoring program. These funds were being used to support the NPDES permit program, which is more appropriately supported by fees on waste dischargers.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget proposal.

## 2. Basin Planning/Water Quality Standards

**Background.** State law requires the board to adopt, and regularly update, Basin Plans that establish state policy for water quality control. This includes updating the scientific basis and policy decisions regarding the beneficial uses of the state's waters. The federal Clean Water Act Section 303 requires states to adopt water quality standards and to review these standards every three years. Water quality standards are the basis for the board's entire regulatory program.

**Governor's Budget.** The Governor's Budget includes \$1 million in funding from the Waste Discharge Permit Fund to fund contracts to provide scientific data needed to update water quality standards contained in existing basin plans. This proposal will be funded by a current surplus in the Waste Discharge Permit Fee Account and will not require the board to increase fees.

**Workload Justification.** During the last triennial update of the water quality standards, the regional boards identified 70 issues that needed attention. However, because of limited resources, only a small number of the issues can be addressed. This additional funding will provide technical support needed to update and ensure the scientific validity of water quality standards.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget proposal.

## 3. Underground Storage Tank Cleanup Fund Program

**Background.** The Underground Storage Tank Cleanup Fund Program is an insurance program supported by fees from underground storage tank owners to fund cleanup of leaky tanks. The funds are allocated to cleanup leaky tanks based on the following priority ranking:

- Residential tank owners;
- Small businesses, governmental organizations, and nonprofit organizations;
- Businesses, governmental organizations and nonprofit organizations with fewer than 500 employees; and

- All other entities with more than 500 employees (major oil companies and large local governments).

Legislation (AB 1906, Lowenthal), enacted in 2004, increased the fee that supports this program by \$0.01 per gallon on January 1, 2005 and another \$0.01 per gallon on January 1, 2006. These fee increases will raise an additional \$33 million in the budget year. The total petroleum tank fee is now \$0.14 per gallon and will generate approximately \$243 million annually. The legislation also required \$10 million to be shifted to the Orphan Subaccount to support the cleanup of abandoned Brownfield sites contaminated by petroleum products. Transfers to the Orphan Subaccount will sunset on January 1, 2008 and the entire underground storage tank cleanup program will sunset in 2011.

**Governor's Budget.** The Governor's budget proposes to shift eight positions that currently exist in the board's bond program to the Underground Storage Tank Cleanup Fund program. The budget also requests a one-time increase of \$10 million in expenditure authority of reverted funds to accelerate distribution of cleanup funds.

**Workload Justification.** The board indicates that the payment processing time for this program has grown to 98 days. Current law requires the board to make payments within 60 days of receipt. Furthermore, the board indicates that it has suspended pre-approvals of corrective action costs, which is an important process for small businesses. Staff finds that the Legislature approved 9.5 new positions for this program in the current year to meet increased workload. It is unclear why additional staff is needed to support this program. Furthermore, there have been ongoing concerns about the performance of the board's grant administration functions. Some of the concerns were related to delays due to lack of staff available to manage the bond programs. Staff finds that a large number of the bond funds have been allocated, but there remains a significant workload until the bond funds are expended.

**Staff Recommendation.** Staff recommends that the Subcommittee do the following:

- Adopt the one-time \$10 million increase in Underground Storage Tank Cleanup Funds for claims.
- Hold open the support proposal to redirect positions from the board's bond program until additional information is received.

## 3960 Department of Toxic Substances Control

**Background.** The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; the General Fund; and federal funds.

**Governor's Budget.** The Governor's Budget proposes \$132 million to support DTSC in 2006-07. This is approximately \$13 million less than estimated expenditures in the current year. This reduction is due to one-time expenditures in the current year related to the state's takeover of the BKK Class I landfill and reductions to the Toxic Substances Control Account to balance the fund. The department's General Fund expenditures are also proposed to decline in the budget year due to one-time expenditures related to the BKK Class I landfill in the current year.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
<b>Type of Expenditure</b>				
Site Mitigation and Brownfields Reuse	\$103,905	\$93,261	-\$10,644	-10.2
Hazardous Waste Management	65,478	64,181	-1,297	-2.0
Science, Pollution Prevention, and Technology	10,834	10,148	-686	-6.3
State as Certified Unified Program Agency	-	1,156	-	-
Capital Outlay	3,963	-	-	-
Administration	34,483	30,464	-4,019	-11.7
<i>less distributed administration</i>	<i>-34,483</i>	<i>-30,464</i>	<i>4,019</i>	<i>0.0</i>
<b>Total</b>	<b>\$184,180</b>	<b>\$168,746</b>	<b>-\$15,434</b>	<b>-8.4</b>
<b>Funding Source</b>				
General Fund	\$26,474	\$22,689	-\$3,785	-14.3
Special Funds	119,087	109,663	-9,424	-7.9
<i>Budget Act Total</i>	<i>145,561</i>	<i>132,352</i>	<i>-13,209</i>	<i>-9.1</i>
			0	0.0
Federal Funds	25,536	26,258	722	2.8
Reimbursements	13,083	10,136	-2,947	-22.5
<b>Total</b>	<b>\$184,180</b>	<b>\$168,746</b>	<b>-\$15,434</b>	<b>-8.4</b>

## 1. Toxic Substances Control Account

**Background.** The Toxic Substances Control Account (TSCA) is funded by the environmental fee that is assessed on corporations which employ at least 50 employees. This fee is a broad-based fee based on the assumption that all businesses use products that contain hazardous materials, such as computers, printers, automobiles, fluorescent lights, and cleaning products. The current fee ranges from \$243 to \$11,625 per year depending on the number of workers employed in California. Revenues from this fund are estimated at approximately \$31 million annually.

The TSCA is the primary funding source for the department's Site Mitigation and Brownfields Reuse Program and its Science, Pollution Prevention and Technology Development Program. In the current year, the account supports 340 positions and \$10.5 million in contracts for these programs.

Over the past few years, the TSCA has developed a \$12 million operating deficit. This deficit is mainly the result of over \$6 million in General Fund reductions since 2001. These reductions reduced required state matching funds to cleanup federal superfund sites and to fund investigation and remediation of state funded superfund sites.

**Governor's Budget.** The Governor proposes to address the \$12 million operating deficit in the Toxic Substances Control Account over a two-year period. To address this shortfall, the Governor's budget proposes the following actions:

- Adopt trailer bill language to expand the environmental fee to all businesses with 50 or more employees (\$5.5 million ongoing starting in 2007-08).
- Adopt trailer bill language to eliminate the Hazardous Substances Subaccount and redirect fines and penalties to TSCA to fund the state's share of federal superfund sites and state-only superfund sites (\$1 million ongoing).
- Adopt trailer bill language to eliminate other obsolete funds and transfer balances to TSCA (\$2.8 million one-time).
- Reduce operating expenses and equipment activities (\$2.8 million in the budget year and \$3.7 million ongoing starting in 2007-08).
- Reduce contract funds (\$250,000 ongoing).
- Suspend TSCA transfer to the Expedited Site Remediation Trust Fund (\$500,000 ongoing starting in 2006-07).

**Equity of Environmental Fee.** The department indicates that the current environmental fee is not equitable since it only applies to corporations. Other businesses also use products that contain hazardous materials, but they are currently exempt from paying the environmental fee. Furthermore, recent law changes have resulted in a 500 percent increase in the number of limited liability companies (LLCs) in California. All of these companies are not subject to the environmental fee regardless of their size. The department's trailer bill language to expand the environmental fee to all businesses would create an even playing field for all businesses with more than 50 employees.

**Expenditure Reductions.** The department indicates that it has had large savings in operating expenses and equipment over the past few years. Therefore, the proposed reductions should have a minimal impact on actual program operations. The department has also had excess contracting authority over the last few years. Therefore, the proposed reductions should not negatively impact program operations.

**Elimination of Obsolete Accounts.** The department proposes to eliminate the following accounts:

- Hazardous Substance Subaccount
- Site Operation and Maintenance Account of the Hazardous Substances Account
- Hazardous Substance Clearing Account
- Superfund Bond Trust Fund

These funds were created to spend the proceeds and pay the principle and interest on the Hazardous Substance Cleanup Bond Funds. These bond funds were fully repaid in December 2005, therefore, the department is proposing trailer bill language to eliminate the obsolete funds and transfer the fund balances to TSCA. Furthermore, the department is also proposing trailer bill language to change the use of the criminal and civil penalties collected for violations of the state's hazardous waste control laws. Currently, these funds are directed to the payment of bond interest, which is now an obsolete function since relevant bond funds have been repaid. The department proposes to spend these funds to provide the state match for federal superfund sites and for remediation of state-only superfund sites. This trailer bill language will require a two-thirds vote since it amends the Proposition 65 ballot initiative (The Safe Drinking Water and Toxic Enforcement Act of 1986).

**Unmet Need for Brownfield Cleanup.** It is estimated that there are between 90,000 and 120,000 Brownfield properties in California where redevelopment has been delayed due to real or perceived hazardous materials contamination. Contamination at these sites hampers the ability of developers and local governments to capitalize on infill development projects that could reduce the urban sprawl, provide additional housing supply, and revitalize blighted urban communities.

The Governor's budget provides \$10.9 million from TSCA to fund orphan site cleanup contracts in the budget year, including the state's share of federal superfund sites and state-only superfund sites. The State Water Resources Control Board also has around \$10 million available to fund orphan site cleanup from the Underground Storage Tank Cleanup Fund. The TSCA budget proposal indicates that it may have to reduce TSCA's funding for orphan site cleanup contracts by \$1.5 million in 2007-08 if the structural deficit in TSCA is not fully addressed. The state funding currently available for cleanup of contaminated Brownfield properties addresses only a small percentage of the total properties that need attention. Any reductions to these funds will reduce the number of orphan properties that can be rehabilitated.

**Pollution Prevention Programs Cost Effective.** In addition to Brownfield cleanup, the TSCA also supports pollution prevention programs. These programs seek to promote pollution prevention by providing state leadership, guidance, and assistance to industry, local governments and other agencies on how to reduce demand for hazardous substances. These programs are very

cost-effective and any further reductions to these programs would reduce the department's ability to reduce pollution from hazardous waste. The department adopted a pollution prevention plan and a two-year work plan to guide the department's pollution prevention efforts. Recent efforts include the following:

- **Mercury Elimination Leadership Program.** Since 2002, the department has been successful in removing two tons of mercury from 79 California hospitals through this cooperative program. This program is supported by two positions at DTSC.
- **Vehicle Service Repair Program.** Since 2000, 63 model shops have reduced hazardous waste by 655 tons. The DTSC developed best management practices and training for the vehicle service repair industry that not only result in reduction of hazardous waste, but also reduce volatile organic compound emissions, reduce storm water pollution, and reduce worker exposure to toxic chemicals.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Adopt trailer bill language to expand the environmental fee to all businesses with 50 or more employees.
- Adopt trailer bill language to eliminate the Hazardous Substances Subaccount and redirect fines and penalties to TSCA to fund the state's share of federal superfund sites and state-only superfund sites.
- Adopt trailer bill language to eliminate other obsolete funds and transfer balances to TSCA.
- Reduce operating expenses and equipment activities by \$2.8 million.
- Reduce contract funds by \$250,000.

## 2. Electronic Waste Recycling Program

**Background.** As mentioned under the Waste Board's budget, implementation of the Electronic Waste Recycling Program is a joint effort between the Waste Board and the DTSC. The Waste Board is responsible for administering the electronic waste recovery and recycling payment system, public education, and coordination with local governments to increase collection. The DTSC is responsible for identifying and regulating hazardous waste and ensuring that electronic waste recyclers and processors are complying with the law.

**Governor's Budget.** The Governor's Budget proposes \$1.6 million in special funds to enhance enforcement efforts related to the Electronic Waste Recycling program. These funds will be used to support 14.5 new positions mainly to increase the department's enforcement presence through inspections of facilities and fraud investigations. In addition, \$105,000 is proposed to fund contracts for the preparation of fact sheets and facility guidance documents in multiple languages.

**Workload Justification.** The department currently has five positions implementing the Electronic Waste Recycling Program, including 4.5 positions conducting enforcement and inspection activities and 0.5 positions developing regulations and providing guidance and technical support to participants in the program. The budget proposal triples the support for this

program at the department. However, current staffing levels were not based on 18 months-plus experience the department now has in managing the new program.

Workload data show that additional staff is needed to inspect the growing number of electronic waste collectors, exporters, transporters, and dismantlers. For example, there was a 45 percent increase in the number of electronic waste facilities from 2004 to 2005. Additional ongoing resources are also needed to continue to identify devices that are included in the program given the number of new electronic devices entering the market annually. The department is also proposing 4.5 positions to initiate fraud investigations in conjunction with the Waste Board. There are significant incentives for fraud in the program given the incentive payments for recycled electronic waste. The department plans to develop a fraud prevention program similar to the program implemented by the Department of Conservation for the beverage recycling program.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

### 3. Uniform Hazardous Waste Manifest

**Background.** Hazardous waste manifests have been used since the early 1980s to track the shipment of hazardous waste from the generator to a storage, disposal, treatment, or recycling facility. The manifest data collected is critical to tracking hazardous waste in the state and is used to monitor compliance with state hazardous waste laws. Furthermore, the data is the basis for assessing hazardous waste generator fees, which generate \$23 million annually to support the department. The department also collects the Manifest User Fee, which is assessed for each manifest used, except manifests for recycled waste which are exempt from the fee. This fee generates approximately \$1.5 million annually.

On March 4, 2005, the U.S. EPA published final regulations to create a mandatory Uniform Hazardous Waste Manifest. This law change preempts state-specific manifest laws and manifest forms. Changes are needed in state law to conform to the changes in federal law and to ensure that the state can continue to collect manifest information and fee revenues.

**Governor's Budget.** The Governor's budget proposal includes trailer bill language to change the California Uniform Hazardous Waste Manifest to the Uniform Hazardous Waste Manifest to conform to recent changes in federal law. The language also proposes to eliminate the current exemption from paying the Manifest User Fee for out-of-state shippers of hazardous waste.

**Justification.** Without this change in law, the department could lose the ability to collect important hazardous waste manifest information that is used to monitor compliance with state hazardous waste laws. This change in law will also ensure that the department can continue to collect fees that support department activities.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

#### 4. Metal Plating Pollution Prevention Program

**Background.** There are in excess of 800 metal plating facilities in California. A 2001 inspection of 37 metal plating facilities found that 100 percent of the metal plating facilities inspected were out of compliance in one or a multiple of environmental media (hazardous wastes generated by metal plating facilities included cyanide, metal sludge, and acid wastes). Since these inspections, the department has provided pollution prevention/compliance site visits at a number of metal plating facilities and developed a Model Shop Program in Southern California. The Model Shop Program was developed to assist the metal plating industry in identifying possible sources of pollution and developing alternative business practices in order to run cleaner, safer shops.

Legislation (AB 721, Nunez), enacted in 2005, requires the Business, Transportation and Housing Agency, in conjunction with DTSC, the Air Resources Board and the State Water Resources Control Board to develop a loan guarantee program to help chrome plating facilities invest in environmental control technologies. The legislation also requires DTSC to establish a Model Shop Program in Northern California with no more than \$200,000.

**Governor's Budget.** The Governor's Budget includes \$85,000 in reimbursements from the Business, Transportation and Housing Agency to fund one 2-year limited-term position to establish a Model Shop Program in Northern California.

**Workload Justification.** Given the large number of metal plating facilities in Southern California, there is still a significant need to continue Model Shop Program activities in Southern California. Therefore, in order to expand the program to Northern California, additional staff resources are needed to identify and establish partnerships with local agencies in Northern California and to initiate pollution prevention/compliance site visits to reduce pollution from metal plating facilities.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

#### 5. Military Site Clean Up

**Background.** The department is required to participate in technical work groups with the Department of Defense, other government agencies, and the public to develop cleanup plans for contaminated military sites. This group provides regulatory oversight of the cleanup, and reviews and comments on technical reports.

The Department of Defense has recently made it a priority to accelerate cleanup of some high priority sites by 2007. This has increased the number of technical reports that need to be reviewed by the technical work groups.

**Governor's Budget.** The Governor's Budget includes \$209,000 in federal funds to support two 5-year limited-term positions to participate in the technical work groups overseeing the cleanup of McClellan Air Force Base and Fort Ord Army Base.

**Workload Justification.** McClellan Air Force Base and Ford Ord Army Base have been targeted for accelerated cleanup activities and early transfer to productive industrial, commercial, residential, or recreational reuses. The accelerated schedule requires additional positions at the state to participate actively in the cleanup of these properties.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the budget proposal.

## 6. BKK Class I Landfill

**Background.** In 2005, the State took over operation and maintenance activities related to the BKK Class I (hazardous waste) landfill in West Covina, California, when the BKK Corporation informed DTSC that it was on the verge of bankruptcy and would no longer be able to fund post closure obligations. The BKK Corporation is a subsidiary of the Washington Mutual Corporation. The DTSC assumed operations of the landfill because of the direct health and safety risks to surrounding communities living in close proximity to the landfill.

Thus far, \$15.5 million from the General Fund has been appropriated to maintain the BKK landfill and to start to address major deferred maintenance projects. The department has been in negotiations with potential responsible parties that contributed hazardous waste to this site and has received \$2.3 million in the current year.

**Governor's Budget.** The Governor's budget proposes \$5.5 million General Fund in the base budget for continued operations and maintenance of the BKK landfill in the budget year. The budget also makes a one-time reduction to the department's current year allocation from the General Fund due to the receipt of payments from potential responsible parties.

**Update.** The department indicates that it expects to receive an additional \$1.5 million in payments from potential responsible parties in the current year and indicates that the department's current year appropriation from the General Fund could be reduced by a like amount.

Furthermore, the department indicates that a consent decree was entered into in early March with a large group of potential responsible parties. The consent decree requires that the potential responsible parties manage essential operations for at least two years. The group has not agreed to do any groundwater monitoring or work related to the storm drain system which is in need of a major upgrade. The department has indicated that the signing of this consent decree will reduce the need for the \$8.5 million from the General Fund provided to support operations of the landfill in the budget year.

The department indicates that it hopes to negotiate a longer-term agreement with the potential responsible parties for management of the site during the next two years. Caltrans and the state of California remain a major responsible party and will share in the costs associated with managing this landfill.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Reduce the department's current year appropriation from the General Fund by \$1.5 million and increase reimbursements by a like amount.
- Request that the department work with staff, the LAO, and DOF to reduce the department's General Fund support by an appropriate amount based on the recent consent decree entered into by the department.

## 7. Universal Waste—Informational Item

**Background.** On February 9, 2006, regulations changed and all wastes considered universal wastes are now banned from the trash. The following common items considered universal wastes include the following:

- All fluorescent lamps and tubes
- All batteries
- All electronic devices
- Thermostats that contain mercury

The department has taken the following actions, in conjunction with the Waste Board, to encourage both household and small business compliance with regulations and to promote local development of infrastructure for convenient disposal of the items:

- Developed a universal waste team made up of the department and the Waste Board to coordinate universal waste actions.
- Funded contracts to explore different models for diverting universal waste from landfills.
- Developed corporate retail take-back partnership programs.
- Provided Household Hazardous Waste grants to projects that develop innovative universal waste management strategies and planning.
- Developed web-pages that provide uniform and consistent information on the proper disposal of universal waste.

**Staff Comments.** Staff finds that the actions listed above are a good first step toward ensuring compliance with the new universal waste rules. However, staff also finds that much more needs to be done to ensure higher rates of compliance.

### Questions.

- What policies does the department plan to pursue to ensure that universal waste streams do not end up in landfills?